

ASSEMBLY BILL

No. 1884

Introduced by Assembly Member Buchanan

February 22, 2012

An act to amend Section 85057.5 of the Water Code, relating to the Sacramento-San Joaquin Delta.

LEGISLATIVE COUNSEL'S DIGEST

AB 1884, as introduced, Buchanan. Sacramento-San Joaquin Delta Reform Act of 2009: covered actions.

Existing law, the Sacramento-San Joaquin Delta Reform Act of 2009, establishes the Delta Stewardship Council as an independent agency of the state. Existing law requires a state or local public agency that proposes to undertake a covered action that will occur within the boundaries of the Delta or the Suisun Marsh to prepare, and submit to the council, a specified written certification of consistency with the Delta Plan prior to taking those actions. Existing law defines the term "covered action" to mean a plan, program, or project, as specified.

This bill would make a technical, nonsubstantive change to the section defining covered action.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 85057.5 of the Water Code is amended
2 to read:

1 85057.5. (a) “Covered action” means a plan, program, or
2 project as defined pursuant to Section 21065 of the Public
3 Resources Code that meets all of the following conditions:

4 (1) Will occur, in whole or in part, within the boundaries of the
5 Delta or Suisun Marsh.

6 (2) Will be carried out, approved, or funded by the state or a
7 local public agency.

8 (3) Is covered by one or more provisions of the Delta Plan.

9 (4) Will have a significant impact on achievement of one or
10 both of the coequal goals or the implementation of
11 government-sponsored flood control programs to reduce risks to
12 people, property, and state interests in the Delta.

13 (b) “Covered action” does not include any of the following:

14 (1) A regulatory action of a state agency.

15 (2) Routine maintenance and operation of the State Water
16 Project or the federal Central Valley Project.

17 (3) Regional transportation plans prepared pursuant to Section
18 65080 of the Government Code.

19 (4) Any plan, program, project, or activity within the secondary
20 zone of the Delta that the applicable metropolitan planning
21 organization under Section 65080 of the Government Code has
22 determined is consistent with either a sustainable communities
23 strategy or an alternative planning strategy that the State Air
24 Resources Board has determined would, if implemented, achieve
25 the greenhouse gas emission reduction targets established by that
26 board pursuant to subparagraph (A) of paragraph (2) of subdivision
27 (b) of Section 65080 of the Government Code. For purposes of
28 this paragraph, “consistent with” means consistent with the use
29 designation, density, building intensity, transportation plan, and
30 applicable policies specified for the area in the sustainable
31 communities strategy or the alternative planning strategy, as
32 applicable, and any infrastructure necessary to support the plan,
33 program, project, or activity.

34 (5) Routine maintenance and operation of any facility located,
35 in whole or in part, in the Delta, that is owned or operated by a
36 local public agency.

37 (6) Any plan, program, project, or activity that occurs, in whole
38 or in part, in the Delta, if both of the following conditions are met:

39 (A) The plan, program, project, or activity is undertaken by a
40 local public agency that is located, in whole or in part, in the Delta.

1 (B) Either a notice of determination is filed, pursuant to Section
2 21152 of the Public Resources Code, for the plan, program, project,
3 or activity by, or the plan, program, project, or activity is fully
4 permitted by, September 30, 2009.

5 (7) (A) ~~Any~~ A project within the secondary zone, as defined
6 pursuant to Section 29731 of Public Resources Code as of January
7 1, 2009, for which a notice of approval or determination pursuant
8 to Section 21152 of the Public Resources Code has been filed
9 before the date on which the Delta Plan becomes effective.

10 (B) Any project for which a notice of approval or determination
11 is filed on or after the date on which the final Bay Delta
12 Conservation Plan becomes effective, and before the date on which
13 the Delta Plan becomes effective, is not a covered action but shall
14 be consistent with the Bay Delta Conservation Plan.

15 (C) Subparagraphs (A) and (B) do not apply to either of the
16 following:

17 (i) Any project that is within a Restoration Opportunity Area
18 as shown in Figure 3.1 of Chapter 3: Draft Conservation Strategy
19 of the Bay Delta Conservation Plan, August 3, 2009, or as shown
20 in a final Bay Delta Conservation Plan.

21 (ii) Any project that is within the alignment of a conveyance
22 facility as shown in Figures 1 to 5, inclusive, of the Final Draft
23 Initial Assessment of Dual Delta Water Conveyance Report, April
24 23, 2008, and in future revisions of this document by the
25 department.

26 (c) Nothing in the application of this section shall be interpreted
27 to authorize the abrogation of any vested right whether created by
28 statute or by common law.